

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Examiner: Marcos L. Torres

Art Unit: 2683

Docket No. 1594

In re:

Applicant: FISCHER, R.

Serial No.: 09/857,675

Filed: June 7, 2001

**AMENDMENT**

July 20, 2009

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia

Sirs:

This communication is responsive to the Office Action of  
October 6, 2008

In the Office Action, Claims 37-42, 44-47, 49, 52-62, 66-68,  
70 and 72-74 are rejected under 35 USC 103(a) over the U.S. patent to  
Alanara in view of the U.S. patent to Vanttila and further in view of the  
publication 3G TS 23.040 V3.3.0 (1999-12) *Technical Specification* 3<sup>rd</sup>  
Generation Partnership Project; Technical Specification Group Terminals;

Technical realization of the Short Message Service (SMS); (3G TS 23.040 version 3.3.0).

Claims 43 and 51 are rejected as above, and further in view of the U.S. patent to Winbladh.

Claim 48 is rejected under 35 USC 103(a) as above, and further in view of the U.S. patent to Söderbacka.

Claim 65 is rejected as Claim 58, and further in view of the U.S. patent to Söderbacka.

Claim 69 is rejected under 35 USC 103 as above, and further in view of the U.S. patent to Proust.

Claims 63 and 64 are rejected as above, and further in view of the U.S. patent to Hannson.

It is respectfully submitted that one of the references applied by the Examiner, namely the above mentioned publication, cannot be considered as a valid reference. The date of the publication is December 1999. The present application is based on the German priority application with a priority date of December 8, 1998, and the PCT application which

was filed on June 14, 1999, while the U.S. national phase application was filed on June 7, 2001. For the national stage U.S. application submitted under 35 USC 371, the filing date is the international filing date of the PCT application. Therefore, the filing date of the present application is June 14, 1999. This filing date is earlier than the publication date December 1999 of the publication applied by the Examiner against the claims in combination with other references.

It is therefore respectfully submitted that the above-mentioned publication cannot be considered as a valid reference and should be withdrawn.


The other references which were applied by the Examiner against the claims in combination with the above mentioned publication do not disclose alone all features of the present invention as defined in the corresponding claims.

In connection with this it is believed that the claims currently on file should be considered as patentably distinguishing over the prior art applied in the last Office Action and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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